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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/170,189 10/13/98 HERBAUT

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PM82/1205

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EXAMINER

FLEMING, F

ART UNIT	PAPER NUMBER
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3618

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DATE MAILED: 12/05/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.

09/170,189

Applicant(s)

HERBAUT, OLIVIER

Examiner

Faye Fleming

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on the amendment filed 11/21/2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

### Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steimke, et al ('433) in view of Hagen, et al ('562) and further in view of Ward, et al ('183). Steimke, et al teaches an airbag module comprising a body (12) including a cover (10) and a retaining means (30) having a thin portion extending from one edge of the body (12) and the thin portion is permanently affixed to the bodywork having a housing so as to be in hinged relationship to the body (12). Steimke, et al also teaches a distance piece (24) positioned in the housing. The distance piece (24) includes one end affixed to the bodywork and another end adjacent to the retaining edge of the body and the retaining edge is releasably affixed to another end. Steimke, et al lacks teaching a body having a first layer and second layer, wherein the first layer being of a thermoformable synthetic cellular material and Steimke, et al lacks teaching a fixing means. Hagen, et al teaches a vehicle occupant protection device comprising a body including a cover (60) having a first layer, an embellishment sheet (62), and a second layer (64). Based on the teachings of Hagen, et al, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of

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Steimke, et al to include a body having a first and a second layer to provide additional protection for the occupant. Ward, et al teaches an airbag cover comprising a fixing means (28, 30) including hook-and-loop material (28, 30) engaged together for releasing from the bodywork, as shown in Figures 1-3. Based on the teachings of Ward, et al, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of the combination of Steimke, et al and of Hagen, et al to include a fixing means to provide an easier release mechanism for the cover of the air bag device. Regarding the thermoformable synthetic cellular material, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have thermoformable synthetic cellular material to provide shape, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Regarding claim 16, Steimke, et al teaches a formed zone cooperatively received within a facing formed zone on the bodywork, as shown in Figure 1.

### ***Response to Arguments***

3. Applicant's arguments filed November 21, 2000 have been fully considered but they are not persuasive. The applicant argues that the Steinke, et al patent does not have the flap of flexible material, however the examiner notes that the flexible material (30) is permanently affixed to the bodywork as described above. In regards the hook-and-loop, the examiner notes that the hook-and-loop is attached to the door, which is the vehicle bodywork.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Fleming whose telephone number is (703) 305-0209. The examiner can normally be reached on M-F (9:00-5:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on (703) 308-0885. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-2571 for regular communications and (703) 308-2571 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Faye Fleming  
Examiner  
Art Unit 3618



fmf  
December 3, 2000



PAUL N. DICKSON  
PRIMARY EXAMINER